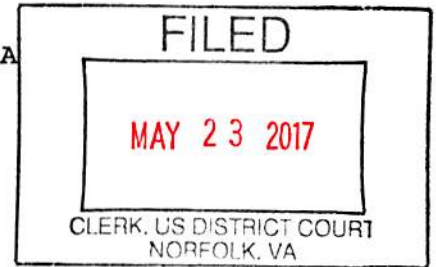


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



DEREK LAMONT WHITE, #1108942,

Petitioner,

v.

ACTION NO. 2:16cv449

HAROLD CLARKE,
Director of the Virginia
Dept. of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. ECF No. 1. Petitioner alleges violations of his constitutional rights pertaining to his convictions in the Circuit Court for the City of Norfolk resulting in a sentence, imposed November 2, 2012, for 68 years in prison with 36 years suspended.

The petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's Report and Recommendation filed April 7, 2017, recommends dismissal of the

petition with prejudice, because the petition is barred by the statute of limitations and Petitioner has not demonstrated that he is entitled to equitable tolling. The Court has received no objections to the Report and Recommendation and the time for filing objections has expired.

The Court does hereby accept the findings and recommendations set forth in the Report and Recommendation, and it is therefore ORDERED that Respondent's motion to dismiss, ECF No. 11, is GRANTED, and the petition for a writ of habeas corpus, ECF No. 1, is DENIED and DISMISSED WITH PREJUDICE as barred by the statute of limitations. It is further ORDERED that judgment be entered in favor of Respondent.

Petitioner may appeal from the Judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such judgment.

Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right," therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See *Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003).

The Clerk shall mail a copy of this Final Order to
Petitioner and to counsel of record for Respondent.

/s/

Rebecca Beach Smith

Chief Judge



Rebecca Beach Smith

CHIEF UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

May 23, 2017